

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Kenneth James Kirton, )  
Plaintiff, ) C/A No. 2:11-2341-MBS  
vs. )  
City of North Charleston; Officer Quick, )  
Badge No. 339; and Charleston County, )  
Defendants. )  
\_\_\_\_\_  
)

**O R D E R**

At the time of the underlying complaint, Plaintiff Kenneth James Kirton was a pretrial detainee at the Charleston County Detention Center in North Charleston, South Carolina. Plaintiff, proceeding pro se, brought this action pursuant to 42 U.S.C. § 1983 on September 2, 2011, alleging that he was denied counsel at a bond hearing, subjected to an excessive bond without any finding that he was a danger to the community or flight risk, and sentenced to an unlawful period of incarceration. Plaintiff seeks damages and injunctive relief.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bruce H. Hendricks for pretrial handling. The Magistrate Judge reviewed the complaint pursuant to the provisions of 28 U.S.C. §§ 1915 and 1915A and the Prison Litigation Reform Act. On September 12, 2011, the Magistrate Judge issued a Report and Recommendation in which she noted that the complaint is subject to summary dismissal pursuant to Heck v. Humphrey, 512 U.S. 477 (1994). The Magistrate Judge further determined that, if Plaintiff had begun a state appellate process with respect to his claims, the court would be barred from review under Younger v. Harris, 401 U.S. 37 (1971). Accordingly, the Magistrate Judge

recommended that the complaint be summarily dismissed without prejudice. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court concurs with the Magistrate Judge’s recommendations and incorporates the Report and Recommendation herein. Plaintiff’s complaint is **dismissed**, without prejudice.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
United States District Judge

Columbia, South Carolina

October 17, 2011

**NOTICE OF RIGHT TO APPEAL**

**Plaintiff is hereby notified of the right to appeal this order  
pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.**